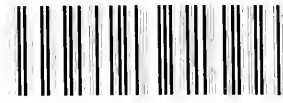


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STATE CLAIMS NORTH- WEST TERRITORY

ADDRESS

OF

HON. WILLIAM E. CHILTON

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

ON APRIL 10, 1912

AND

ADDRESS

OF

GOV. CLAUDE A. SWANSON

OF VIRGINIA

ON "VIRGINIA DAY"

DELIVERED AT THE JAMESTOWN EXPOSITION

JUNE 12, 1907

PRESENTED BY MR. SWANSON

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STATE CLAIMS FOR NORTHWEST TERRITORY.

SPEECH OF HON. WILLIAM E. CHILTON, OF WEST VIRGINIA, IN THE
SENATE OF THE UNITED STATES, WEDNESDAY, APRIL 10, 1912,

On the bill (S. 6247) to provide for the bringing of suits against the United States by Virginia, West Virginia, Kentucky, Delaware, Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina, New Hampshire, New York, North Carolina, and Rhode Island.

Mr. CHILTON said:

Mr. President, I introduced, a few moments ago, a bill giving jurisdiction to the Court of Claims in certain matters affecting the thirteen original States as to claims which the people of Virginia and West Virginia believe they have against the Federal Government. I do not desire to take much of the time of the Senate for two reasons, first, because this is not the time to discuss fully the provisions of the bill and to state the reasons why the Senate should pass it; and I have the additional reason that the very attractive subject of the Senator from Washington [Mr. Jones] and his well-known ability to handle that or any other subject so as to both entertain and enlighten the Senate constrain me to wish that he should have as much time as possible during the day.

The bill which I have introduced has in mind a condition in this country more than a hundred years ago, and it is what might be termed a smasher of idols. Confessedly, the bill and what it purports to do will change what is the common understanding of history.

It has always been supposed that the State of Virginia in 1784 conveyed to the Federal Government what is known as the Northwest Territory, without reserve and without condition, and that the Federal Government took title to that property as an individual would do, with the absolute right to dispose of the subject matter and also with the right to appropriate the proceeds of the sales. There never was a greater error committed by history, and it is my purpose now simply to review briefly the history of this grant and to put in the Record some of the papers and public documents bearing upon this question so that the proper committee, in the consideration of this bill, of so much importance to the 13 original States, and especially to my State, and of so much importance to the Government, should start off in the investigation that will be made of it in possession of the facts and with a general understanding of the contention of the States of West Virginia and Virginia.

It is well known that at the time the original Confederation or Federal alliance of the States was made one of them, the State of Maryland, declined to become a party to that compact. She made

remonstrances to what was then the Federal organization against the large boundaries of land held by New York, Connecticut, Georgia, Virginia, and possibly other States. She made it known to the Continental Congress that she would decline to become a party to the original Federal compact until such time as that question should be settled, claiming that it would give the States having the large boundaries of western lands a power and an influence in the Federal organization inconsistent with the position which Maryland, without a public domain, would occupy in that compact.

I want to put the remonstrance of the State of Maryland into the Record, and I ask permission, without reading it, that that document may be inserted as a part of my remarks.

The VICE PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

ACTION OF MARYLAND.

On the 21st of May, 1779, the Delegates from Maryland laid before Congress the following instructions received by them: Instructions of the General Assembly of Maryland to George Plater, William Paca, William Carmichael, John Henry, James Forbes, and Daniel of St. Thomas Jenifer, Esqs.

GENTLEMEN: Having conferred upon you a trust of the highest nature, it is evident we place great confidence in your integrity, abilities, and zeal to promote the general welfare of the United States, and the particular interest of this State where the latter is not incompatible with the former; but to add greater weight to your proceedings in Congress and take away all suspicion that the opinions you there deliver, and the votes you give, may be the mere opinions of individuals and not resulting from your knowledge of the sense and deliberate judgment of the State you represent, we think it our duty to instruct as followeth on the subject of the Confederation—a subject in which, unfortunately, a supposed difference of interest has produced an almost equal division of sentiments among the several States composing the Union. We say a supposed difference of interests; for if local attachments and prejudices and the avarice and ambition of individuals would give way to the dictates of a sound policy, founded on the principles of justice—and no other policy but what is founded on those immutable principles deserves to be called sound—we flatter ourselves this apparent diversity of interest would soon vanish, and all the States would confederate on terms mutually advantageous to all, for they would then perceive that no other confederation than one so formed can be lasting. Although the pressure of immediate calamities, the dread of their continuance from the appearance of disunion, and some other peculiar circumstances may have induced some States to accede to the present Confederation, contrary to their own interests and judgments, it requires no great share of foresight to predict that when those causes cease to operate the States which have thus acceded to the Confederation will consider it as no longer binding and will eagerly embrace the first occasion of asserting their just rights and securing their independence. Is it possible that those States who are ambitiously grasping at territories to which, in our judgment, they have not the least shadow of exclusive right, will use with greater moderation the increase of wealth and power derived from those territories, when acquired, than what they have displayed in their endeavors to acquire them? We think not. We are convinced the same spirit which hath prompted them to insist on a claim so extravagant, so repugnant to every principle of justice, so incompatible with the general welfare of all the States, will urge them on to add oppression to injustice. If they should not be incited by a superiority of wealth and strength to oppress by open force their less wealthy and less powerful neighbors, yet depopulation, and consequently the impoverishment of those States, will necessarily follow, which, by an unfair construction of the Confederation, may be stripped of a common interest and the common benefits derivable from the western country. Suppose, for instance, Virginia indisputably possessed of the extensive and fertile country to which she has set up a claim. What would be the probable consequences to Maryland of such an undisturbed and undisputed possession? They can not escape the least discerning.

Virginia, by selling on the most moderate terms a small proportion of the lands in question, would draw into her treasury vast sums of money, and, in proportion to the sums arising from such sales, would be enabled to lessen her taxes. Lands comparatively cheap and taxes comparatively low with the lands and taxes of an adjacent State would quickly drain the State thus disadvantageously circumstanced

of its most useful inhabitants. Its wealth and its consequence in the scale of the confederated States would sink, of course. A claim so injurious to more than one-half if not the whole of the United States ought to be supported by the clearest evidence of the right. Yet what evidences of that right have been produced? What arguments alleged in support either of the evidence or the right? None that we have heard of deserving a serious refutation.

It has been said that some of the delegates of a neighboring State have declared their opinion of the impracticability of governing the extensive domain claimed by that State. Hence also the necessity was admitted of dividing its territory and erecting a new State under the auspices and direction of the elder, from whom, no doubt, it would receive its form of government, to whom it would be bound by some alliance or confederacy, and by whose councils it would be influenced. Such a measure, if ever attempted, would certainly be opposed by the other States as inconsistent with the letter and spirit of the proposed confederation. Should it take place by establishing a subconfederacy, *imperium in imperio*, the State possessed of this extensive dominion must then either submit to all the inconveniences of an overgrown and unwieldy government or suffer the authority of Congress to interpose at a future time and to lop off a part of its territory, to be erected into a new and free State and admitted into a confederation on such conditions as shall be settled by nine States. If it is necessary for the happiness and tranquillity of a State thus overgrown that Congress should hereafter interfere and divide its territory, why is the claim to that territory now made and so pertinaciously insisted on? We can suggest to ourselves but two motives—either the declaration of relinquishing at some future period a proportion of the country now contended for was made to lull suspicion asleep and to cover the designs of a secret ambition, or, if the thought was seriously entertained, the lands are now claimed to reap an immediate profit from the sale. We are convinced policy and justice require that a country unsettled at the commencement of this war, claimed by the British Crown, and ceded to it by the treaty of Paris, if wrested from the common enemy by the blood and the treasure of the 13 States, should be considered as a common property, subject to be parceled out by Congress into free, convenient, and independent governments, in such manner and at such times as the wisdom of that assembly shall hereafter direct.

Thus convinced, we should betray the trust reposed in us by our constituents were we to authorize you to ratify on their behalf the Confederation, unless it be further explained. We have coolly and dispassionately considered the subject; we have weighed probable inconveniences and hardships against the sacrifice of just and essential rights; and do instruct you not to agree to the Confederation unless an article or articles be added thereto in conformity with our declaration. Should we succeed in obtaining such article or articles, then you are hereby fully empowered to accede to the Confederation.

That these, our sentiments respecting our Confederation, may be more publicly known and more explicitly and concisely declared, we have drawn up the annexed declaration, which we instruct you to lay before Congress, to have printed, and to deliver to each of the Delegates of the other States in Congress assembled copies thereof signed by yourselves or by such of you as may be present at the time of delivery, to the intent and purpose that the copies aforesaid may be communicated to our brethren of the United States and the contents of the said declaration taken into their serious and candid consideration.

Also we desire and instruct you to move at the proper time that these instructions be read to Congress by their Secretary and entered on the Journals of Congress.

We have spoken with freedom, as becomes freemen, and we sincerely wish that these, our representations, may make such an impression on that assembly as to induce them to make such addition to the Articles of Confederation as may bring about a permanent Union.

A true copy from the proceedings of December 15, 1778.

Test:

T. DUCKETT,

Clerk of the House of Delegates.

Mr. CHILTON. West Virginia is prepared to show at the proper time that the above protest of Maryland against Virginia's title to the Northwest Territory was not based upon any substantial defect in Virginia's title nor upon any fact unknown to the country at that time. But whatever may have been Virginia's title, it proved to be ample to secure every foot of the Territory to the Federal Government. It need not be argued here that a trustee can not sell the

land and then refuse to account for the proceeds upon the ground of a defective title. Here the trustee disposed of the land, and her grantees are in undisputed possession.

The Continental Congress fully appreciated the gravity of the situation and its helplessness to induce Maryland to come into the Confederation. The Articles of Confederation left to the States unconditional control of their western lands. The power of the Congress respecting these lands was limited to the settlement of boundaries in dispute between States. (Art. IX.) Therefore Virginia, as to her territory, was sovereign and independent, and there was no power that could compel her to part with her title except upon her own terms. The Congress referred the above instructions of Maryland to her delegates to a committee, which made a report, and on the 6th day of September, 1780, the following proceedings were enacted:

IN CONGRESS OF THE CONFEDERATION,
Wednesday, September 6, 1780.

Congress took into consideration the report of the committee to whom were referred the instructions of the General Assembly of Maryland to their Delegates in Congress respecting the Articles of Confederation and the declaration therein referred to, the act of the Legislature of New York on the same subject, and the remonstrance of the General Assembly of Virginia, which report was agreed to and is in the words following:

"That, having duly considered the several matters to them submitted, they consider it unnecessary to examine into the merits or policy of the instructions or declarations of the General Assembly of Maryland or of the remonstrance of the General Assembly of Virginia, as they involve questions, a discussion of which was declined, on mature consideration, when the Articles of Confederation were debated; nor, in the opinion of the committee, can such questions be now revived with any prospect of conciliation; that it appears more advisable to press upon those States which can remove the embarrassments respecting the western country a liberal surrender of a portion of their territorial claims, since they can not be preserved entire without endangering the stability of the general Confederacy; to remind them how indispensably necessary it is to establish the Federal Union on a fixed and permanent basis and on principles acceptable to all its members; how essential to public credit and confidence, to the support of our Army, to the vigor of our councils and success of our measures, to our tranquillity at home, our reputation abroad, to our very existence as a free, sovereign, and independent people; that they are fully persuaded the wisdom of the respective legislatures will lead them to a full and impartial consideration of a subject so interesting to the United States and so necessary to the happy establishment of the Federal Union; that they are confirmed in these expectations by a review of the before-mentioned act of the Legislature of New York, submitted to their consideration; that this act is expressly calculated to accelerate the Federal alliance, by removing, as far as depends on that State, the impediment arising from the western country, and for that purpose to yield up a portion of territorial claim for the general benefit: Whereupon

"*Resolved*, That copies of the several papers referred to the committee be transmitted, with a copy of the report, to the legislatures of the several States, and that it be earnestly recommended to those States who have claims to the western country to pass such laws and give their Delegates in Congress such powers as may effectually remove the only obstacle to a final ratification of the Articles of Confederation; and that the Legislature of Maryland be earnestly requested to authorize the Delegates in Congress to subscribe the said article."

TUESDAY, October 10, 1780.

"*Resolved*, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Union, and have the same rights of sovereignty, freedom, and independence as the other States; that each State which shall be so formed shall contain a suitable extent of territory, not less than 100 nor more than 150 miles square,

or as near thereto as circumstances will admit; that the necessary and reasonable expenses which any particular State shall have incurred since the commencement of the present war in subduing any British posts, or in maintaining forts or garrisons within and for the defense, or in acquiring any part of the territory that may be ceded or relinquished to the United States shall be reimbursed.

That the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or any nine or more of them.

Shortly thereafter the State of Virginia passed a resolution of her legislature suggesting a plan under which she would convey this northwest domain to the then Federal Alliance. That was passed in January, 1781, and amounted to a proposition to the Continental Congress. In two months thereafter, to wit, in March, 1781, Maryland ratified the Federal compact and became a part of the first Federal Government formed upon this continent, and thereby the way was paved to form what is now the United States Government under our present Constitution.

But, Mr. President, the cession that was made by Virginia, under the grant of authority to her commissioners to make that cession, was not an absolute one. Virginia made certain reservations in her deed of cession, and to those particularly I want to call the attention of the Senate.

The deed made by Virginia was in strict conformity to the act of its legislature authorizing it to be made. The legislative act is, indeed, recited in the deed. The grant, it will be seen, is to "the said States, Virginia inclusive," and "for the uses and purposes and on the conditions of the said recited act."

On the 20th day of October, 1783, Virginia, through her legislative branch, authorized the cession of the Northwest Territory to be made, and on March 1, 1784, her delegates in the Continental Congress presented the deed of cession, and the following proceedings took place:

PROCEEDINGS OF CONGRESS.

March 1, 1784, Virginia, through her delegates in the Continental Congress, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, completed the act of cession, the following proceedings being had in Congress:

On motion of Mr. Howell, of Rhode Island, the following resolution was adopted:

Whereas the General Assembly of Virginia, at their session commencing on the 20th day of October, 1783, passed an act to authorize their Delegates in Congress to convey to the United States, in Congress assembled, all the right of that Commonwealth to the territory northwestward of the River Ohio; and

Whereas the Delegates of the said Commonwealth have presented to Congress the form of a deed proposed to be executed pursuant to the said act, in the words following:

"To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten Delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting:

"Whereas the General Assembly of the Commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act entitled 'An act to authorize the Delegates of this State in Congress to convey to the United States, in Congress assembled, all the right of this Commonwealth to the territory northwestward of the River Ohio,' in these words following, to wit:

"Whereas the Congress of the United States did, by their act of the 6th day of September, in the year 1780, recommend to the several States in the Union having claims to waste and unappropriated lands in the western country a liberal cession to the United States of a portion of their respective claims for the common benefit of the Union; and

"Whereas this Commonwealth did, on the 2d day of January, in the year 1781, yield to the Congress of the United States, for the benefit of said States, all right, title, and claim which the said Commonwealth had to the territory northwest of the River Ohio, subject to the conditions annexed to the said act of cession; and

"Whereas the United States in Congress assembled have, by their act of the 13th of September last, stipulated the terms on which they agree to accept the cession of this State, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence, that Congress will, in justice to this State for the liberal cession she has made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal for the common benefit and support of the Union:

"Be it enacted by the general assembly. That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates or such of them so assembled are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the River Ohio, subject to the terms and conditions contained in the before-recited act of Congress of the 13th day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than 100 nor more than 150 miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States.

"That the necessary and reasonable expenses incurred by this State in subduing any British posts or in maintaining forts and garrisons within and for the defense, or in acquiring any part of, the territory so ceded or relinquished shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State which they shall judge to be comprised within the intent and meaning of the act of Congress of the 10th of October, 1780, respecting such expenses. That the French and Canadian inhabitants and other settlers of the Kaskaskies, St. Vincents, and the neighboring villages who have professed themselves citizens of Virginia shall have their possessions and titles confirmed to them and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding 150,000 acres of land, promised by this State, shall be allowed and granted to the then colonel, now Gen. George Rogers Clark, and to the officers and soldiers of his regiment who marched with him when the post of Kaskaskies and St. Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio, as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia. That in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland River and between the Green River and Tennessee River, which have been reserved by law for the Virginia troops, upon continental establishment, should, from the North Carolina line bearing in farther upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiencies should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportion as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States and not reserved for or appropriated to any of the before-mentioned purposes or disposed of in bounties to the officers and soldiers of the American Army shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed unless three of them, at least, are present in Congress.

"And whereas the said general assembly, by the resolution of June 6, 1783, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said Commonwealth in Congress for one year, from the first Monday in November then next following, which resolution remains in full force:

"Now, therefore, know ye that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said General Assembly of Virginia before recited, and in the name and for and on behalf of the said Commonwealth, do by these presents convey, transfer, assign, and make over unto the United States, in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter situate, lying, and being to the northwest of the River Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony thereof we have hereunto subscribed our names and affixed our seals in Congress the 1st day of March, in the year of our Lord 1784, and of the independence of the United States the eighth."

Resolved, That the United States in Congress assembled are ready to receive this deed whenever the delegates of the State of Virginia are ready to execute the same.

The delegates of Virginia then proceeded and signed, sealed, and delivered the said deed, whereupon Congress came to the following resolution:

Resolved, That the same be recorded and enrolled among the acts of the United States in Congress assembled.

The claim which will be urged arises out of the following clause in the act of Virginia and in the deed of cession:

That all land within the territory so ceded to the United States and not reserved or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, *shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the Confederation, or Federal Alliance, of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose and for no other use or purpose whatsoever.*

The contention, tersely stated, is that the United States has treated this territory as if it had the absolute title and ownership thereof, and has failed to respect the rights of the thirteen original States, for whose "use and benefit" the territory was granted. There is no great mystery about the proposition. The courts are sought in order to settle, first, what is the construction of the above reservation; and, second, if a trust was created, how much does the trustee owe to the beneficiaries, if anything?

It is hard to conceive how lawyers and statesmen could drop into the error that by such a grant as that and with such a reservation as that the Federal Government could dispose of, give away, or sell this vast domain without regarding the reservations which I have just read. There is no room for construction. It construes itself. It either creates a trusteeship in the National Government, with the National Government as the trustee and the thirteen original States as the beneficiaries, or else it is a conveyance with a condition subsequent, and a condition subsequent is just as binding upon the grantee who accepts as a condition precedent. A condition precedent prevents title from vesting until the condition shall be performed. A condition subsequent allows the title to vest at once, but it does not relieve the grantee from the duty of performing each and every condition when he accepts the conveyance and takes the property under it.

The Confederation was little more than a limited partnership among the States for common defense. There was no way of enforcing against a State in that Confederation an order or law of the Congress concerning western lands. There was no power delegated to the Congress concerning territory or its management and government. The sovereign States were paying the expenses of the Revolutionary War out of a common fund "supplied" by the States "in

proportion to the value of the land in each State," and so forth. (Art. VIII, Confederation.) The Federal Government was then a mere agent of the States, and the grant made by Virginia kept that relation in view. Each of the original States had the right to own land and to be the beneficiary under a trust. Each could purchase, hold, and sell land. The Confederation owned nothing, but many of the States, like Virginia, claimed western lands. This was the situation when the present Constitution was framed and ratified. The Constitution afterwards formed provided that when ratified by nine States it would be effective as to those ratifying.

Suppose, Mr. President, that only the nine States necessary to make the present Constitution binding should have ratified it, surely those nine could not have appropriated a trust subject belonging to the thirteen States, for the other four would then have come to the trustee, the National Government, for a settlement of the trust property and for their proportion of it.

It so happened that the thirteen States did ratify it, but if they had not done so we can at once see that the other four, which had been left out, even under the construction which history has mistakenly made of this grant, could have had their part of it proportioned and could have compelled the trustee by well-known principles of equity practice to account for the trust subject.

Mr. President, we are not left alone to the circumstances of the parties and contemporaneous history for the construction of that instrument. Before the Constitution of the United States was ratified while we had nothing but the slim Federal Alliance, the National Government applied to the State of Virginia to change some of the terms of the original cession, thus recognizing the rights of Virginia. Even when she wanted to change the number of States that should be made out of that great territory she had to go back to the State of Virginia and ask Virginia's consent to it, which consent Virginia gave as to that particular matter and none other, not changing the terms of the grant with which my bill deals. This action of the United States is set forth fully in the paper prepared by Dr. Fuller, to which I will call attention later, and I will therefore not read any part of that action of Congress here.

But the Constitution of the United States was, bear in mind, a contemporaneous act. We had as president of the Constitutional Convention George Washington, a citizen of Virginia, who was familiar with the whole subject of Virginia's territorial limits and her cession to the Federal Government. It was provided in that Constitution that contracts similar to this which were made with the States should be preserved, and were not thereby swallowed up by the national entity which was created when the Constitution was adopted.

I call attention especially, first, to section 3 of Article IV of the Constitution of the United States, which provides that—

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

There could not have been any claim of any particular State except the claims regarding the Revolutionary War and this particular claim which was reserved to all of the thirteen original States

by the munificence of the old State of Virginia. This clause of the Constitution could not possibly have had any purpose except to protect the States in their prior dealings with the Federal Government. The first part of the sentence grants power to govern the "territory" of the United States; the second part protects all "claims" of the States. The fact that this protection to "claims" of the States is inserted in the clause dealing with the "territory" of the United States is most convincing that the framers of the Constitution had in mind the Virginia cession.

Again, Article VI of the Constitution provides that—

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

We must keep in mind the very limited powers of the Confederation, the enlarged powers of the Federal Government under the Constitution, and the fact that when the Constitution was written the proceedings of the Legislature of Virginia and the Continental Congress concerning this cession were recent events. Virginia's part in drafting and ratifying the Constitution must be construed from the standpoint of her prominence in the Union, her importance as a State, the prominent position occupied by her representatives in the convention, and the great deliberation which she pursued in making the cession. Having created a trust for herself and her 12 sister States, it was natural that her representatives in the convention would see to it that in creating a new government in which the States would reserve less of their sovereignty, the trust would be protected. It seems to me that the two clauses of the Constitution quoted furnish all the guaranties needed by the thirteen original States to preserve their rights in the cession of 1784; but I would hate to think that this great Government would choose to occupy the unenviable position of administrator de son tort, much less that of a faithless trustee.

I shall reserve for a later time, when this bill shall come back into the Senate, as I hope it will, a more minute discussion of what this grant has meant to this Government, what has been brought to this Government from the great munificence of the State of Virginia; but suffice it to say at the present time that that grant embraced the States of Ohio, Indiana, Illinois, Wisconsin, Michigan, and a part of Minnesota, 170,000,000 acres of land, a munificence unknown anywhere else in history. It stands to-day as a monument to the old State of Virginia that in the hour of the Government's peril, when others hesitated Virginia gave her all that this might become a great Nation; and in view of the small reservation that she made here for the benefit of those interested, for the benefit of those most concerned, it is not asking too much, it seems to me, when she and those occupying the same position which she does in reference to this fund should come now to the Government, when positions have changed, when the Government has all and the States of Virginia and West Virginia have little—I say it is not asking too much when they come now to the Federal Government and ask that a simple, plain trust shall be executed as the parties to it evidently intended it should be done.

I should mention that this territory or the great States which have been formed from it have furnished seven Presidents of the

United States. The present President of the United States came from that territory. All the three who died at the hand of an assassin came from those States. I may say further that it will not be the fault of the States in that territory if they do not continue the habit of furnishing Presidents of the United States for some time to come, because we have in that territory at least four active candidates and I think about five dark horses at the last tabulation that I made. When we think what this territory has been to the United States; what has been enacted within the States created from it; what its men have done for commerce, art, literature, and humanity; and then consider what might have been Virginia's position had she retained it and thus kept her boundaries intact, from the ocean to the Great Lakes and the Mississippi, the imagination is baffled in any attempt to conceive what differences it would have made in history, and at the same time the generosity of Virginia towers above the most extreme view that may be taken of the possibilities to the national purse strings that may result from a settlement of this trust.

Mr. President, it may be asked why Virginia and West Virginia have so long remained silent and why they should demand at this particular time that this trust be settled. That really has nothing to do with the case, but it may be answered that you need not call upon the trustee to account until the trustee has disposed of the trust subject. It has only been recently that the United States Government has disposed of the last of this land.

Another reason, Mr. President, is that there has been no tribunal in which my State, West Virginia, could litigate this matter, either at law or in equity.

But it may be said as a third reason that the States and the people who were generous to the Federal Government in 1784 would be equally so now, only that the time has come when their creditors are pressing them for a settlement, and it is but just and right that they should call upon their greatest debtor, the National Government, to make a settlement of a matter long, long standing.

Mr. President, this bill asks for no appropriation; it does not ask the Government to commit itself to anything except justice and a "square deal;" but it does ask that a jurisdiction and a tribunal may be provided in which each and all of the 13 original States, including the two daughters of Virginia, West Virginia and Kentucky, may present their claims, may have them heard, and finally that an appeal may be had to the Supreme Court of the United States. Certainly the United States can trust its own courts to do it ample and complete justice. So thoroughly have the people of Virginia and West Virginia convinced themselves of the justice of this cause that they are perfectly willing to leave it in the last instance to the highest tribunal of the Government. This bill provides that the case may be first tried by the Court of Claims, and then, on appeal, by the Supreme Court of the United States.

Mr. President, as a part of my remarks I should like to introduce a resolution of the State of Virginia passed in 1910, which I will not read, but ask to have inserted in the Record, calling upon her Representatives in Congress to present this claim.

The VICE PRESIDENT. Without objection, the resolution will be inserted in the Record.

The resolution referred to is as follows:

House journal and document, Legislature of Virginia, 1910 (p. 757).

Mr. Page offered the following joint resolution:

"Be it resolved by the house of delegates (the senate concurring), That the question of the rights of Virginia in the Northwest Territory, or in the proceeds derived or to be derived from the sales or other disposition of the lands granted under the ordinance session [cession] and disposed of in contravention of such ordinance by the Government of the United States, be submitted to the Virginia delegation in Congress with the request and direction that they take such steps as may be necessary to determine and safeguard the rights of Virginia in the premises, if any she may have, and the governor of Virginia is requested to cooperate with the said Virginia delegation in regard to this matter."

Which was agreed to.

Ordered, That Mr. Page carry this joint resolution to the senate and request their concurrence.

A message was received from the senate by Mr. Halsey, who informed the house that the senate had agreed to the joint resolution.

Mr. CHILTON. I will say, Mr. President, that for a long time the Senators from Virginia and West Virginia have been investigating this subject, and the bill which I have presented, as shown from the memoranda on the back of it, is the result of the labors of the two Senators from Virginia and the two Senators from West Virginia. When one of the present Senators from Virginia was governor of that State, he took a great interest in this subject and transmitted to the general assembly of that State a communication, a very strong paper, from Dr. R. B. Fulton, formerly of the University of Mississippi, who made a very thorough investigation of this subject. I should like permission to insert, as a part of my remarks, the message of the governor of Virginia and the accompanying papers. It is Virginia Senate Document No. 3. I would ask to omit such parts of this document as I have already quoted, indicating in the Record the omitted part by stars.

The VICE PRESIDENT. Without objection, permission to do so is granted.

The document referred to is as follows:

[Senate Document No. 3.]

COMMUNICATION FROM THE GOVERNOR OF VIRGINIA, TRANSMITTING CERTAIN CORRESPONDENCE AND REPORTS IN REFERENCE TO THE CLAIM OF VIRGINIA AGAINST THE UNITED STATES GOVERNMENT ON ACCOUNT OF THE CESSION OF THE NORTHWEST TERRITORY.

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
Richmond, Va., January 24, 1901.

To the General Assembly of Virginia:

Superintendent of Public Instruction Hon. J. D. Eggleston and Dr. Robert B. Fulton, superintendent of the Miller School, have called to my attention a large claim which the State of Virginia has against the Federal Government, arising from the cession to the United States of the vast territory once possessed by this Commonwealth north of the Ohio River. Dr. Fulton has, at the request of Superintendent Eggleston and myself, for some time been making a thorough investigation of this matter and has compiled a complete and detailed statement of this claim, which appears to establish its justice and legality and imposes upon me the duty of transmitting the facts and information obtained by him to you for consideration and action.

Prominent Virginians, including Commodore Maury and Superintendent of Public Instruction Dr. William H. Ruffner, have presented in writings and reports this claim of the State of Virginia.

Succinctly stated, the claim presented is as follows:

The vast territory north of the Ohio River was included in Virginia's original charter of 1609, which charter was prior to the charter of any other State and which

territory was included in the boundaries of Virginia when she asserted her independence and organized her government as a sovereign State in 1776. This territory, in addition to being Virginia's by charter rights, became hers also by conquest, since it was conquered from the British by Virginia troops, commissioned by the governor and council of Virginia. The expenses incurred by these troops in this conquest were paid out of the treasury of this Commonwealth. Virginia was in actual possession and control of this territory until her cession to the Federal Government and the acceptance of her cession by the Federal Government. Prior to this cession this territory was organized as the county of Illinois and held as a part of the State. Thus, by charter rights, by conquest, and by actual possession, this territory ceded constituted a part of Virginia. The fact that the United States Government derived title to this vast territory by cession and deed of conveyance made by Virginia to the United States Government has been clearly and distinctly recognized by the Supreme Court of the United States in the case of *Handley's Lessee v. Anthony* (5 Wheat., p. 374). In this case, the opinion of which was rendered by Chief Justice Marshall, the court decided, in fixing the boundary lines between the State of Kentucky and the State of Indiana, that the boundary line of Indiana must be determined by the cession made by the State of Virginia to the United States Government and the terms and limitations contained in that cession, since the title of the United States to the territory was derived from this cession of the State of Virginia. The opinion of this court was further sustained by the general court of Virginia in the case of *Commonwealth v. Garner* (3 Grattan, p. 655). Thus, the prior rights of Virginia to this territory have been judicially determined.

In the acts of Virginia making the cession of this large territory to the United States and in the deed of conveyance in pursuance of the act of the general assembly executed by her representatives in the Continental Congress, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, according to her directions, were contained certain conditions, which conditions the Federal Government accepted. Among the conditions thus enumerated and accepted by the Federal Government was the following:

"That all the land within the territory so ceded to the United States and not reserved or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation or Federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

The United States Government, through Congress, has uniformly recognized that this territory ceded was derived from Virginia, and that she was bound by the conditions contained by the act of cession. Desirous of changing some of the conditions contained in the act of cession regarding the establishment of new States in the ceded territory, she requested Virginia to make some alterations in these conditions, which Virginia consented to, permitting the creation of States different from the original cession. By requesting Virginia to make this change Congress recognized that she had no right, even in the creation of States in this territory, to alter the terms of the original act of conveyance without the consent of the State of Virginia.

Out of this territory ceded by Virginia were formed the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and a portion of Minnesota. The United States received by this cession 170,208,623 acres of land. Of this land some was appropriated to comply with the conditions contained in the act of cession accepted, other than the one above stated. The largest portion of it was sold and paid into the Treasury of the United States, and used in payment of the public debt and in the payment of Federal expenditures. It may possibly be contended that this portion was, under the terms of the cession, used for the benefit of all States, as contained in the cession made by Virginia. But, contrary to the expressed conditions contained in the act of cession, Congress at different times, in the aggregate, appropriated 38,868,212 acres of land, and \$2,953,654.70, derived from the sale of these public lands, entirely to local uses within these six States. These amounts of land and money were appropriated for local school purposes, construction of canals, improvement of local roads, and other purposes within these States, entirely local. Thus it appears that more than one-fifth of the lands ceded by Virginia under definite provisions and conditions, reserving to Virginia an interest in them, has been disposed of in ways that have given no "use and benefit" to Virginia, as distinctly reserved for her in her act of cession. At the time that Virginia ceded her western territory to the United States Virginia's proportion in the general charge and expenditure was about one-seventh of the whole, and thus her reserved interest in the lands not specifically applied for the purposes

stated in the deed of concession was about one-seventh. The value of this land donated to local uses (amounting to 38,868,212 acres), computed at \$2 per acre, which was the price fixed by Congress when it was first offered for sale, would be \$77,736,424. This, added to the amount of money appropriated of \$2,958,651, would make the total value of the donation for local purposes, clearly contrary to the terms and provisions of cession, amount to \$80,695,078. Subject to such claims as might exist in behalf of Kentucky and West Virginia, which were then a part of Virginia, Virginia has a right to demand of the Federal Government her part of these lands and money, which Congress appropriated entirely to local uses and for which Virginia received no benefit.

The full statement of Dr. Fulton, which I file with this message, indicates other large and fair claims of Virginia, which the limit necessarily given to this message precludes me from mentioning. Though reserving to herself a fair share of the use and benefits to be derived from these many millions of acres of land, it appears that Virginia has never received an acre of land nor a cent of money from this source. The Federal Government accepted, by resolution, this cession of Virginia containing these conditions, and is bound in law and equity to discharge the obligations of the compact made with Virginia. The United States has fully recognized her obligations to comply with all the conditions imposed in the Virginia conveyance and cession by fulfilling all except the one reserving to Virginia a share in the use and benefits of all these lands. Virginia should insist that this should be complied with. As a party to the compact she is the proper party to make this demand.

I commend to your most careful consideration the very valuable and interesting history of this transaction and the claims of the State of Virginia upon the Federal Government, which has been so industriously and carefully compiled by Dr. Fulton. I have had no opportunity to make a careful personal examination of the statements contained in the documents submitted to me, hence I recommend that the General Assembly of Virginia refer this matter to an appropriate committee for examination and report. If the conclusions reached by that committee concur with these contained in the statements and facts presented herewith, I then recommend that the general assembly authorize her Representatives in Congress to take such action as they may think proper to have this claim of Virginia against the Federal Government fairly and justly settled, and that the attorney general of this State be directed to cooperate with them and to take such action as he may think the best interest of Virginia demands.

I transmit with this message a full statement of the facts and conclusions obtained by Dr. Fulton in his research and investigation, with letters from Supt. Eggleston and Dr. Fulton.

Respectfully submitted.

CLAUDE A. SWANSON, *Governor.*

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF PUBLIC INSTRUCTION,
Richmond, Va., January 22, 1910.

His Excellency CLAUDE A. SWANSON,
Governor of Virginia, Richmond, Va.

MY DEAR GOVERNOR: In the State school reports of Supt. W. H. Ruftner for the years 1871-1873, extended mention is made of the claims of Virginia against the United States, based on the cession of the Northwest Territory.

I started an investigation of these claims in 1906, but found that it would take too much of my time from official duties. Knowing that Dr. R. B. Fulton, at one time chancellor of the University of Mississippi and now president of the Miller School of Virginia, had an intimate acquaintance with the public-land legislation and policies of the United States Government, I asked him, in the spring of 1907, to make a thorough investigation of Virginia's rights in the premises.

A few months ago, as you will recall, Dr. Fulton and I had a conference with you in regard to this matter and laid before you the results of the investigation made by Dr. Fulton. You suggested certain further lines of inquiry, which have been carefully pursued since that time.

I transmit herewith a letter from Dr. Fulton, with accompanying documents, for your consideration and for such action as you think the interests of the State demand.

I am, sir, with high regard,

Respectfully, yours,

J. D. EGGLESTON, JR.,
Superintendent of Public Instruction.

THE MILLER SCHOOL,
MILLER SCHOOL POST OFFICE, ALBEMARLE COUNTY, VA.,
Miller School, Va., December 22, 1909.

HON. JOSEPH D. EGGLESTON,
Superintendent of Public Instruction, Richmond, Va.

MY DEAR MR. EGGLESTON: In the spring of the year 1907 you called my attention to the statements published by your predecessor in office, the late Dr. William H. Ruffner, in his first, second, and third annual reports as superintendent of public instruction (1871-1873), regarding the reserved interest of the State of Virginia in the lands northwest of the Ohio River, which lands she ceded, under certain conditions, to the United States in 1784. Soon after this conversation, in June, 1907, you requested me to make an examination of the matter to which Dr. Ruffner referred, and you supplied me with copies of the reports above mentioned and gave many helpful suggestions.

The matter has had my most careful consideration. I have sought original sources of information, as well as the opinions of statesmen and writers which might throw light upon the subject. While its various ramifications have led in many directions, have been involved with many coordinate or conflicting interests, and have extended over a long historical period, I trust that the essential facts which should form the basis of a correct judgment are shown with sufficient clearness in the condensed statement herewith presented.

In this statement I have brought together, in proper sequence, certain well-known historical facts, and have made references to the authorities consulted.

The subject is of more than academic interest, since it involves questions of right and justice and patriotism, and concerns the great State of Virginia in her relations to her sister States and to the Republic.

You are at liberty to use this paper in any way which you may think proper.

Very sincerely, yours,

ROBERT B. FULTON.

THE VIRGINIA LAND CESSION OF 1784.

The first settlements of the English upon the Atlantic coast of North America were made under charters or grants from the British Crown. The text of these charters may be found in Poore's Charters and Constitutions of the United States. A brief discussion of the 13 original American colonies, as constituted under the royal charters, may be found in Dr. B. A. Hinsdale's *The Old Northwest* (published by Silver, Burdett & Co., 1899). Hinsdale follows the texts of the charters as given by Poore. In these charters the attempts made to specify limits and boundaries in an unknown continent unavoidably led to controversy when the settlements were extended from their original centers. It is not the present purpose to discuss these controversies, but only to state such facts as relate to the subject in hand.

The settlement at Jamestown in 1607 was made under a charter given in 1606 by King James I. "But as it did not prove satisfactory, the King in 1609 granted to the London Co. a second charter, in which he bounded the colony that henceforth monopolized the name of Virginia, as follows:

"* * * Situate, lying, and being in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the seacoast to the northward 200 miles, and from the said point of Cape Comfort all along the seacoast to the southward 200 miles, and all that space and circuit of land lying from the seacoast of the precinct aforesaid up into the land throughout from sea to sea. And also all the islands lying within 100 miles along the coast of both seas of the precinct aforesaid. * * *" (*Hinsdale, "The Old Northwest,"* p. 73.)

When Virginia asserted her independence and organized her government as a sovereign State in 1776 she reaffirmed her charter right to the territory in the limits fixed by King James I in 1609. Section 21 of her constitution, adopted June 29, 1776, reads:

"The territories contained within the charters erecting the colonies Maryland, Pennsylvania, North and South Carolina are hereby ceded, released, and forever confirmed to the people of those colonies, respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by Virginia, excepting the free navigation and use of the Rivers Potomack and Pohomoke, with the property of the Virginia shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon.

"The western and northern extent of Virginia shall in all other respects stand as fixed by the charter of King James I, in the year 1609, and by the public treaty of peace

between the courts of Great Britain and France in the year 1763, unless by act of legislature one or more territories shall hereafter be laid off and governments established westward of the Allegheny Mountains. And no purchase of lands shall be made of the Indian natives but on behalf of the public by authority of the general assembly." (Hening's Statutes of Va., vol. 9, pp. 118-119.)

This territorial claim of Virginia, based upon her charter, placed her western boundary at the Mississippi River and left an undetermined extension northward for her territory northwest of the Ohio River.

Acting under instructions from the governor and council of Virginia, dated January 2, 1778, George Rogers Clark, in command of Virginia troops, in 1778 and 1779 captured all the British posts in the territory northwest of the Ohio, excepting those in the extreme north on the Great Lakes, and held the territory from the Ohio to the Lakes in the name of Virginia.

"The Northwest had been won by a Virginia army, commanded by a Virginia officer put in the field at Virginia's expense." (Hinsdale's "The Old Northwest," p. 158.)

On October 27, 1777, the Continental Congress in framing the Articles of Confederation, which were to be submitted to the several States for acceptance, inserted a clause to the effect that "no State shall be deprived of territory for the benefit of the United States." (Secret Journals of Congress under date Oct. 27, 1777.)

"The six smaller States which held no western lands contended with tenacity and determination that said lands should not be held by the States owning them for their exclusive use, while the seven States which claimed and under the confederation held vast sections of Crown grant lands in the West held the contrary opinion." (History of the Public Domain, p. 60, Government Printing Office.)

Maryland refused to sign the Articles of Confederation until the States holding or claiming western territory should make a surrender of these lands or claims to the United States. Her general assembly voted, on December 15, 1778, vigorous instructions to her Delegates in Congress, urging the view and contentions of Maryland, which were presented in Congress January 6, 1779. (History of the Public Domain, pp. 61-62.) A still more earnest paper adopted the same day, December 15, 1778, was not presented in Congress until May 21, 1779. (Secret Journals of Congress, date of May 21, 1779.)

In reply to this action by Maryland the General Assembly of Virginia, on December 14, 1779, addressed to the Delegates of the United States in Congress assembled a "remonstrance," firm and vigorous in tone. (Hening's Statutes of Virginia, Vol. X, pp. 546 et seq.)

On the 7th of March, 1780, the Delegates in Congress from New York presented an act of the legislature of that State offering to limit the boundaries of that State on the west, leaving to the United States territory in the West claimed by New York. (History of the Public Domain, p. 63; Journals of Congress, Mar. 7, 1780.) Her claim was largely based upon treaties with the Indians.

Following the reception of these papers, Congress took the following action (Journals of Congress, Sept. 6, 1780; History of the Public Domain, p. 64):

* * * * *

Virginia ceded and the United States in Congress assembled accepted all of her territory northwest of the River Ohio under the several conditions above shown. On July 7, 1786, Congress asked of Virginia alterations of the conditions of the above act of cession, as far as these conditions relate to the limits of new States to be formed in the territory so ceded, on account of difficulty in forming the lands into States with boundaries as contemplated in the deed of cession. Following is the resolution adopted in Congress July 7, 1786 (History of the Public Domain, pp. 69-70; Journals of Congress, July 7, 1786; Hening's Statutes of Virginia, Dec. 30, 1788, vol. 12, p. 780):

"Resolved, That it be, and it hereby is, recommended to the Legislature of Virginia to take into consideration their act of cession, and revise the same so far as to empower the United States in Congress assembled to make such a division of the territory of the United States lying northerly and westerly of the River Ohio, into distinct republican States, not more than five nor less than three, as the situation of that country and future circumstances may require, which States shall hereafter become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence as the original States, in conformity with the resolution of Congress of the 10th of October, 1780."

On July 13, 1787, Congress passed the ordinance for the government of the territory northwest of the River Ohio, which embraced the above proposition as to the number of States in the Virginia cession. The subject matter of this ordinance had been under

consideration by Congress from May 10, 1786. (History of the Public Domain, p. 150.)

December 30, 1788, the General Assembly of the State of Virginia passed the following (act of Virginia of 30th December, 1788):

"Whereas the United States in Congress assembled did, on the 7th day of July, in the year of our Lord 1786, state certain reasons showing that a division of the territory which hath been ceded to the said United States by this Commonwealth, into States, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican States, not more than five nor less than three in number, as the situation of that country and future circumstances might require. And the said United States in Congress assembled have, in an ordinance for the government of the territory northwest of the River Ohio, passed on the 13th of July, 1787, declared the following as one of the articles of compact between the original States and the people and States in the said territory, viz:

"ART. V. There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north to the territorial line between the*United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* And it is further understood and declared that the boundaries of these three States shall be subject so far to be altered that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east-and-west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have 60,000 free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government: *Provided,* The constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than 60,000."

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and conform the said article of compact between the original States and the people and States in the said territory.

2. *Be it therefore enacted by the general assembly,* That the afore-recited article of compact between the original States and the people and States in the said territory northwest of the Ohio River be, and the same is hereby, ratified and confirmed, anything to the contrary in the deed of cession of the said territory by this Commonwealth to the United States notwithstanding. (History of the Public Domain, p. 70; Hening's Statutes of Virginia, vol. 12, p. 780.)

That there was thus formed a definite contract and agreement between the United States and the State of Virginia, and an engagement by Congress to carry out the definite purposes and conditions of this agreement, is clearly shown by the words of the acts above quoted, and the circumstances under which they were passed.

That the distinct conditions upon which Virginia's deed of cession was made were recognized as binding by the United States, at the first, is shown by the fact that the several conditions, marked (A), (B), (C), (D), (E), above, have, through various later enactments, been carefully fulfilled by Congress. (See Land Laws of the United States.)

The obligation and engagement distinctly stated in the last condition upon which the Virginia cession was made and accepted, marked (F) above, must remain forever binding as at first, unless annulled by formal joint action by Congress and the State of Virginia, or rendered void by the adoption of the Constitution of the United States after the cession was made, or specifically fulfilled by Congress.

There has been no legislation by the State of Virginia and the Congress changing this last condition.

The Constitution of the United States, Article IV, section 3, declares that the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this

Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Article VI of the Constitution of the United States declares that "All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation."

The engagement entered into by the United States with Virginia is thus not rendered void, but reaffirmed by the terms of the Constitution of the United States.

As to the fulfillment of this last and most important of the conditions and engagements in Virginia's act of cession, it appears from all the history and record of the matter that Virginia, through no fault of hers, has entirely failed to receive her due and proportionate share of the use and benefit of these lands in the territory northwest of the River Ohio, as distinctly provided and reserved in her deed of cession.

The following statement, relating to the specific performance of the engagement entered into by Congress to dispose of the lands ceded by Virginia in the manner and for the purpose stipulated, can be verified by the citations given.

As above recited, on March 1, 1784, the United States acquired from Virginia title to the soil and jurisdiction of the territory northwest of the River Ohio under the conditions stated. Immediately Congress began the enactment of legislation for the government of this territory, and for the disposition of the lands therein.

On March 1, 1784 (*History of the Public Domain*, pp. 147-149; *Journals of Congress*, Mar. 1, 1784), a committee, consisting of Mr. Jefferson, of Virginia; Mr. Chase, of Maryland; and Mr. Howell, of Rhode Island, submitted to Congress a plan for the temporary government of the western territory. This report was discussed and finally adopted, after amendment, on April 23, 1784. (*History of the Public Domain*, pp. 148-149; *Journals of Congress*, Apr. 23, 1784.)

This remained in force as law until the adoption of the ordinance for the government of the territory of the United States northwest of the River Ohio of July 13, 1787. (*History of the Public Domain*, pp. 149-153; *Journals of Congress*, July 13, 1787.)

These two ordinances related in their terms only to the government of the territory and not to the disposition of the lands therein.

On April 29, 1784 (*History of the Public Domain*, pp. 196-197), Congress, by resolution, called the attention of the States still holding western lands to the fact of former resolutions of Congress asking for cessions; and "in presenting another request for further cessions," stated (speaking of persons who had furnished supplies to carry on the war): "These several creditors have a right to expect that funds shall be provided on which they may rely for their indemnification; that Congress still considers vacant territory as an important resource, and that, therefore, the said States be earnestly pressed, by immediate and liberal cessions, to forward these necessary ends, and to promote the harmony of the Union." This was in accordance with a request made in Virginia's deed of cession.

These western lands were looked upon by all the financiers of this period as an asset to be cashed at once for payment of current expenses of Government and extinguishment of the national debt. (*History of the Public Domain*, pp. 196-197.)

On the 20th of May, 1785 (*History of the Public Domain*, pp. 196-197), Congress passed an ordinance for ascertaining the mode disposing of lands within the western territory. It not only included disposition, but it gave the first plan of the survey of the lands prior to disposition. Under this ordinance the Board of Treasury (the Treasury Department prior to and under the confederation; see ordinances of Congress of Feb. 17, 1776, of July 30, 1779, and of May 28, 1784), consisting of three commissioners, were to receive the plats of surveys from the geographer (now surveyor general) in charge of surveys. The Secretary of War was then to draw by lot certain townships for land bounties for the use of the Continental Army, and the Board of Treasury was to draw the remainder by lot in the name of the 13 States, respectively, who were to advertise and sell them at public sale for not less than \$1 per acre.

The provision for drawing certain tracts in the name of the 13 States was a move toward carrying out the last specific condition in the Virginia deed of cession. The clause requiring the drawing for the 13 States was repealed by Congress July 9, 1788. (*History of the Public Domain*, p. 197; *Journals of Congress*, July 9, 1788.)

March 3, 1795 (*History of the Public Domain*, p. 200; *Journals of Congress*, under dates given), Congress by law provided that "the net proceeds of the sales of lands belonging, or which shall hereafter belong, to the United States in the western territory thereof" should constitute a portion of the sinking fund of the United States for the redemption of the public debt.

May 18, 1796 (*History of the Public Domain*, p. 200; *Journals of Congress*, under dates given). Congress passed the act for the sale of the lands of the United States in the territory northwest of the River Ohio, providing for the sale of the surveyed lands in sections of 640 acres, at not less than \$2 per acre, the proceeds to be paid to the Treasurer of the United States.

"The general policy of land legislation by Congress was, for the first 30 years, to meet exigencies by temporary enactments from time to time. This policy was continued down to the period of the passage of the preemption act of 1841." (*History of the Public Domain*, p. 205.)

Under this policy Congress fell into the habit of donating lands freely and liberally in the territory ceded by Virginia, apparently without considering whether or not the conditions of this cession were being fulfilled by such donations and grants for local benefit.

As the result of this indefinite policy, the lands in the territory ceded by Virginia have been practically all disposed of by the United States without any adjustment or settlement of Virginia's reserved interest therein.

Passing by for the present the facts, which are of record in the Treasury Department of the Government, showing the receipts from the lands which were sold by the United States in the territory ceded by Virginia, and the disposition made of these receipts in the payment of the public indebtedness or otherwise, attention is called to the facts regarding the disposal by Congress of large tracts of land in the territory ceded by Virginia for various purposes, essentially local in their character, in the States organized in that territory, in which purposes and the subsequent uses and benefits of the land thus donated Virginia and the other of the original 13 States had no part.

The *History of the Public Domain*, prepared by the Public Land Commission in pursuance of the acts of Congress of March 3, 1879, and June 16, 1880, revised under subsequent acts of Congress and published by the Government Printing Office, 1884, and the *Land Laws of the United States*, Volumes I and II (*House Miscellaneous*, 2d sess., 47th Cong., 1882-83, Vols. XVII and XVIII), show that Congress has made grants or donations of lands for the special benefit of the five States—Ohio, Indiana, Illinois, Michigan, Wisconsin—formed out of the territory ceded by Virginia, as follows:

1. One section or square mile in each township of 36 square miles was given in these States by Congress to the legislatures of these five States for public schools. This means one thirty-sixth part of the lands in each State, a total of 4,365,917 acres. (*History of the Public Domain*, pp. 223-228; *Land Laws of the United States*, Vol. I, Nos. 28, 215, 346, 493, 622.)

2. A donation of 72 square miles (and more in Ohio and Wisconsin) was given to each of these five States for seminaries of learning or State universities—a total of 299,520 acres. (*History of the Public Domain*, p. 228.)

3. Three per cent or 5 per cent of the net receipts for sales of lands by the United States in each of these States was given to the States for roads, etc. The amounts which have accrued to the several States formed out of territory ceded by Virginia from these grants up to June 30, 1880, are for Illinois, \$712,744.82; for Indiana, \$618,277.50; for Michigan, \$471,344.55; for Ohio, \$596,634.10; for Wisconsin, \$455,253.73. These amounts in Indiana, Illinois, and Ohio represent 3 per cent of the net proceeds of the sales of public lands in those States, and in Michigan and Wisconsin 5 per cent of such proceeds; total, \$2,854,254.70. (*History of the Public Domain*, p. 238.)

4. Congress gave to each of these five States 500,000 acres of the public lands in these States for internal improvements—a total of 2,500,000 acres. (*History of the Public Domain*, p. 255.)

5. For canal-construction purposes Congress gave to Indiana, Ohio, Illinois, Wisconsin, and Michigan, from the year 1824 to June 30, 1880, a total of 4,424,073.06 acres. (*History of the Public Domain*, p. 250.)

6. For military roads in Wisconsin and Michigan within the same period Congress gave more than 523,000 acres. (*History of the Public Domain*, p. 260.)

7. Land grants for railroads to these States and corporations therein, up to June 30, 1880, amounted to, in Illinois, 2,595,053 acres; in Michigan, 3,355,943 acres; in Wisconsin, 3,553,865 acres; total, 9,504,861 acres. (*History of the Public Domain*, pp. 269, 270.)

8. Congress gave to these several States salt springs and saline lands as follows: To Ohio, 24,216 acres; to Indiana, 23,040 acres; to Illinois, 121,029 acres; to Michigan, 46,080 acres—a total of 214,371 acres. (*History of the Public Domain*, p. 218.)

9. Under the swamp land acts Congress gave to Illinois 1,151,974 acres; to Indiana, 1,252,708 acres; to Michigan, over 5,640,000 acres; to Wisconsin, over 3,036,548 acres; to Ohio, 25,640 acres—a total of over 11,406,847 acres. (History of the Public Domain, p. 223.)

10. Congress gave in land bounties to soldiers of the Continental Line and in the War of 1812, 8,095,220 acres in the territory ceded by Virginia, and the grants made in the reserved Virginia military district for the Virginia troops on Continental establishment amounted to 3,770,000 acres—a total granted in bounties up to 1861 on these two accounts of 11,865,220 acres. (History of the Public Domain, pp. 232-234.)

11. Besides all the above, there were numerous grants on special accounts for river improvements, private donations, to special schools, for the local support of religious work, etc. These grants, mentioned in the History of the Public Domain and in the Land Laws of the United States, show a total of over 100,000 acres for such uses purely local.

That part of Minnesota lying east of the Mississippi River and of the ninety-fifth meridian was included in Virginia's cession. It includes, by count of townships and fractions on our official United States map, 16,588,800 acres.

The total acreage of lands surveyed by the United States in the territory ceded by Virginia is as follows (History of the Public Domain, p. 189):

	Acres.
In Ohio.....	25, 576, 960
In Indiana.....	21, 937, 760
In Illinois.....	35, 465, 093
In Michigan.....	36, 128, 640
In Wisconsin.....	31, 511, 360
In Minnesota, east of Mississippi River.....	16, 588, 800
Total.....	170, 208, 613

In Minnesota Congress gave even more liberally to local uses. As shown by the citations above, one-eighteenth of the area of Minnesota was given for schools, and for all the local uses above specified a total of 17,184,233 acres was granted. Approximately one-third of all the land in this State was thus given for local uses. In that part of the State lying in the Virginia cession this would amount to 5,529,600 acres, and \$99,400 in cash.

The amounts of land granted by Congress to Ohio, Indiana, Illinois, Michigan, and Wisconsin, or to persons in these States for local uses, as shown under the headings numbered above, omitting the tenth heading, are as follows:

1.....	acres..	4, 365, 917
2.....	do.....	299, 520
3.....	\$2, 854, 254. 70
4.....	acres..	2, 500, 000
5.....	do.....	4, 420, 073. 06
6.....	do.....	523, 000
7.....	do.....	9, 504, 861
8.....	do.....	214, 371
9.....	do.....	11, 406, 847
11.....	do.....	100, 000
Total (\$2,854,254.70 in cash).....	do.....	33, 334, 589. 06
Similar grants in Minnesota, east of the Mississippi, amounted to.....	do.....	5, 529, 600. 00
And \$99,400 in cash.....		

Total for local uses (\$2,953,654.70 in cash).....do..... 38, 864, 189. 06

It thus appears that more than one-fifth part of the lands ceded by Virginia under definite proviso and conditions reserving to Virginia an interest in them has been disposed of in ways that gave no "use" or "benefit" to Virginia, having been donated by Congress to local interests.

At the time when Virginia ceded her western territory to the United States her "usual respective proportion in the general charge and expenditure" was about one-seventh of the whole, as shown by the requisition made by Congress upon the 13 States at that time. At the time of the cession her reserved interest was, therefore, one-seventh of all the lands not specifically applied to the purposes stated in the deed of cession.

The value of the lands donated to local uses, amounting to 38,864,189 acres, as shown above, computed at \$2 per acre, which was the price fixed by Congress when they were offered for sale by the act of May 18, 1796 [History of the Public Domain, p. 205], would be...		\$77, 728, 378. 00
The donated percentage on sales was.....		2, 953, 654. 70
Total value of donations.....		80, 681, 032. 70
The total area surveyed by the United States in the States formed in the Virginia cession, as above shown, amounted to.....acres.....		170, 208, 613
The total granted for local uses was.....do.....		38, 864, 189
Total granted in bounties to soldiers.....do.....		11, 865, 220
		50, 729, 409
As shown above.....{do.....		170, 208, 613
		50, 729, 409
Balance sold or to be sold.....do.....		119, 479, 204

The price received varied from time to time, but probably averaged at least \$1 per acre. This would indicate receipts from sales of lands in the Virginia cession aggregating probably \$100,000,000. The exact facts are matters of record in the departments in Washington.

A study of all the acts and resolutions passed by Congress and the several States regarding the cession of lands claimed by the original States, as set forth in the History of the Public Domain, pages 60 to 81, shows that these cessions were asked by Congress and made by the States for the purpose of securing, through the sale of the lands, funds by which the financial embarrassment of Congress could be relieved and the public debt extinguished. The act of Congress of March 3, 1795, above quoted, distinctly provides for this use of the proceeds of the lands ceded. The public debt incurred in the War of the Revolution was eventually extinguished, and it appears from the last condition in Virginia's deed of cession that as soon as this was accomplished her reserved interest should have become immediately available for her use and benefit.

No attempt has been made in this paper to discuss the interest of any other of the original 13 States in Virginia's cession. It appears that Kentucky and West Virginia, being formed out of territory that was a part of Virginia when the cession of the Northwest Territory was made, would logically have an interest dependent on Virginia's interest.

I have not found that the State of Virginia has ever taken formal action looking to an investigation or adjustment of her reserved interest in the lands ceded to the United States March 1, 1784.

Very respectfully,

R. B. FULTON.

Mr. CHILTON. Mr. President, the State of West Virginia would not have it thought that this "claim," reserved in the cession of 1784 and protected by two clauses of the Constitution, is an idea born of her troubles concerning the debt of the State of Virginia referred to in the first constitution of West Virginia. The suit between the two States growing out of that debt is now pending in the Supreme Court and will proceed in an orderly manner. West Virginia will meet her just obligations, whether the Federal Government shall be compelled to settle the trusteeship created by the Virginia cession or not. But it need not be denied that the proceedings in the suit which I have mentioned have been disappointing to West Virginia, and if she be compelled to pay a large sum of money to Virginia she will look upon it as a hardship. But, by the same rule which would hold her liable for Virginia's debt, she would be entitled to the funds accruing to Virginia prior to the division of the State. If territory or population be a basis for apportioning obligations, it is also a basis for a division of assets. If West Virginia shall, in the end, have any part of the Virginia debt to pay she will need her share of the trust

funds now in the hands of the Federal Government; if she be not required to respond, then her share of that fund is none the less the heritage of the two Virginias.

There is a court provided by law in which anyone having a claim against the Government can litigate it. All sorts of claims of Indians and citizens, Indian tribes, and corporations are settled in this tribunal. The Government denies justice to none. It was in response to the demand that this Government shall be just to everyone that the Court of Claims was created. But shall it be said that the Government will deny to any State the same justice which she grants to all the world besides?

It can not, then, be conceived that the Government will make Virginia and West Virginia, whose bounty she accepted in times when she was in sore straits, and the other beneficiaries under an express trust, the only exceptions to the rule that no creditor shall be denied a hearing in a court of justice. A hearing is all that is asked. The States interested will accept the decision of the courts of the United States upon the construction to be placed upon the cession and upon every matter involved in the claim. Congress is not called upon to take any position upon the merits of the controversy. It would be an arbitrary course for any alleged trustee to deny the trust and refuse the beneficiaries an opportunity to establish it; but under the peculiar relations occupied by the Government, under the facts which I have outlined, it would be unspeakably arbitrary, unfair, and unwise to refuse a sovereign State the poor boon of a fair and impartial hearing in a court of justice.

This bill makes no appropriation, recites no facts, and assumes no position upon the title papers or upon the acts of any of the parties. The Government's liability can not be fixed until the last word shall be said by the Supreme Court. The States interested ask for no favors, but they do demand justice. I thank the Senator from Washington [Mr. Jones] for his courtesy in yielding to me.

AN ADDRESS OF GOV. CLAUDE A. SWANSON ON "VIRGINIA DAY,"
DELIVERED AT THE JAMESTOWN EXPOSITION, JUNE 12, 1907.

Ladies and gentlemen:

The Commonwealth of Virginia and the Republic, the United States of America, have united to celebrate this the third century of their beginning. Jamestown is the joint cradle of this State and this Nation. Thus, as we participate in these commemorative exercises, our hearts flame alike with State and with National patriotism.

This day of the exposition has been designated as "Virginia Day." To-day the children and the descendants of the children of Virginia gather at this birthday party to pay loyal, loving devotion to their glorious mother for her 300 years of brave endeavor and splendid achievement. Virginia extends to all of you a cordial, warm, and loving welcome. To her children who have come from afar she gives her blessings and benedictions. She places her loving hands on their heads and wishes them all measure of prosperity and happiness. She salutes her many fair daughters in statehood with maternal pride and joy, she rejoices at their bright career, and feels that their glories add to her a deeper majesty. To her sister States, who so

generously rejoice and celebrate with her, she gives an affectionate greeting, while she thrills anew with that love which cements them and her into a perpetual union. To her foreign friends and nations who have graced this occasion by their presence and approval she extends the hand of true friendship and hospitality. To this Nation, to whose growth and power she has made such vast contributions, her heart goes out in an abounding and abiding love.

Virginia! Thy very name, like that of Scotland, England, France, Greece, and Rome, has a distinct and individual meaning, bringing to the mind scenes of natural loveliness and visions of sacrifice, suffering, heroism, and glory, which will encircle thee with a deathless renown. Bounded by high mountain and majestic ocean, decorated with hill, plain, and valley, threaded by beautiful broad rivers, kissed by sunshine and radiant with warmth, nature designed thee as the fit abode of a joyous and chivalric, courageous, and lofty people. Virginia furnished a magnificent and suitable stage for the cavalier to unfold the drama of his new destiny. Here man and nature were found in perfect harmony. Here brave people and beautiful country combined to create a history so resplendent with genius and grandeur as to make this Commonwealth illustrious the world over. Soft and sweet as the memories of buried love will ever lie in our hearts the old colonial homes and plantations of Virginia, embowered in forests, shrubbery, and flowers, bright with joyous romantic life, ruled by superb women and noble men. The history of the Old Virginia from Jamestown to Appomattox is the history of a great and glorious people, ever to be noted in story and in song. No people, no civilization in the same length of time ever accomplished so much for the betterment of mankind or produced so many eminent men, who will be numbered forever among the immortals. Her history is replete with great deeds and great names.

The two most important rights of modern times are the trial by jury and legislative government. Within Virginia was impaneled the first jury that ever administered justice in the Western Hemisphere. Here in the New World was first exercised and firmly established that precious heritage of the Anglo-Saxon, which has been the chief source of his liberty and his main protection against oppression and despotism. At Jamestown, on the 30th of July, 1619, assembled the House of Burgesses of Virginia, the first legislative body that ever sat or enacted laws in America. This was the first parliamentary body of the world composed of members from designated boroughs and elected by universal suffrages. In the modest wooden church at Jamestown was first exercised the great principle that government should be the expression of the will of the masses of the people. The birth of free representative government in Virginia was coeval with its destruction elsewhere. James I had deprived Parliament of its power and privileges, dissolved it, not to be convened for seven years. The Spanish King had destroyed the National Cortez, and his will was the supreme law of Spain. The States General of France was dissolved, not to be called until 1789, on the eve of the French Revolution. The only place free from arbitrary power and despotism was the small colony of Virginia fringing the Atlantic coast. Liberty had no refuge save in the forests of Virginia. Right valiantly did the brave cavaliers of Virginia preserve the sacred fire intrusted to their keeping. In 1624, without a dissenting voice, the house of burgesses enacted that no

taxes should be levied within the colony and no money appropriated except by its authority. This bold declaration was made years before the same was asserted by the British Parliament against Charles I. This principle that taxation is a gift of the citizens, dependent on their consent, and not a prerogative to be exercised by rulers, is the very foundation of all free government. This is the right for which we contended a century and a half later in the Revolutionary War. The germ of free institutions was first planted and nourished in the soil of Virginia. Protected by brave, loving hands, refreshed by heroic blood, it was strengthened, has grown, and fructified until now it overspreads the world. The people of Virginia, through their elected representatives levied and appropriated all taxes, declared war or made peace, guarded their own forts, furnished and commanded their own troops, and practically exercised all the functions of government. In 1629 Virginia made another firm assertion of her privileges and rights. Charles I presented a flattering offer to the colony to give him a monopoly of their tobacco. The assembly vigorously protested against the monopoly, and decisively rejected the proposal. Charles acquiesced in this refusal, and this King, who had ruthlessly monopolized the trades and industries of England to obtain money, dared not to extend his despoiling hand to Virginia. Later, Charles received a bolder and more dangerous defiance. He sent his commissioners to inquire into the affairs of Virginia, and demanded the public records of the colony. The assembly refused, insisting that the records were not for the inspection of the King or his commissioners. The commissioners finally induced Sharpless, the clerk, to furnish them a copy of the records, whereupon the assembly condemned Sharpless to stand in the pillory and have the half of one of his ears cut off. Here was the legislative assembly of an infant colony that knew its privileges and rights, and dared to maintain them against all aggressors and at all hazards. Even thus early, the torch of liberty illumined the woods of Virginia. On the 28th of April, 1625, the people of Virginia, still more resolutely asserted their rights. On that day the house of burgesses removed the royal governor, Sir John Harvey, from his office on account of misconduct and exercise of illegal powers, and elected Capt. John West as governor in his place. This preceded by years the deposition of Charles I by the British Parliament. The colony of Virginia led the mother country in opposition to tyranny and oppression, and in bold maintenance of the rights and liberty of Englishmen. This was the first revolutionary act in America: the first warning given to the kings of the Old World that their unworthy and arbitrary deputies in the new would encounter resistance and receive capitulation. The Virginians did not confine their opposition to the oppressive measures of the weak and vacillating Charles. They were equally as defiant of Cromwell, the most masterful and resolute character of the century. After Cromwell had made himself absolute ruler of Britain and his iron hand had destroyed Parliament itself, he sent his ships and commissioners to subdue the colony of Virginia, which still loyally adhered to the fortunes of the ill-starred House of Stuart. Virginia armed to resist, and the commissioners could only prevent war by making a solemn treaty, conceding to the people of Virginia freedom of trade equal to that of the people of England, the right that taxes should be levied and appropriated, affairs conducted, and the governor and all their officers

elected, forts guarded, troops raised and commanded as the house of burgesses should direct. Until Cromwell's death these rights were enjoyed and vast power thus exercised by the people of Virginia. Thus virtually it amounted to independence. When we reflect that these privileges were obtained from the most forceful and despotic ruler of his age, before whose power Europe trembled, we can form some conception of the resolute courage and ardent love of liberty possessed by the cavaliers of Virginia.

The year 1676 was a notable one in the annals of Virginia, and marked an important epoch in the history of America. Then, for the first time, Americans, with sword in hand, rose to redress their wrongs, assert their rights, and reform government. Berkeley, the royal governor of Virginia, had arrogated to himself all authority and power. Having secured a servile House of Burgesses, he continued its existence from year to year, and refused the people the right to elect another. He assumed the right to appoint all officers. The trade with the Indians, the taxes, and public lands were corruptly appropriated by him and his favorites. For fear of losing the profits of the Indian trade he would not protect the people from the tomahawk of the merciless savages. He stubbornly resisted every effort to correct these abuses. Inflamed by the eloquence and animated by the courage of Nathaniel Bacon, the people rose in arms, drove Berkeley and his adherents from Jamestown, forced them to seek refuge in their ships and remote places, seized the reins of government and held them until the death of Bacon. History can not furnish a more dramatic and inspiring scene than that at the Middle Plantation, now Williamsburg, where, on the 3d of August, 1676, the cavaliers of Virginia assembled, and in stormy session, extending from noon to midnight, finally, under the flickering light of torches, signed an agreement that they would never lay down their arms until their wrongs were redressed, though the King of Great Britain should send troops to try to suppress them. This was the boldest, bravest act of the century. While England submitted to the corrupt and wicked Charles, Virginia resisted the tyrannical Berkeley and obtained the reforms demanded. Thus a century before were sown in the soil of Virginia seed that afterwards ripened into the Revolution and brought independence to the colonies. No people ever clung to individual and public liberty more tenaciously than the proud and imperious cavaliers of Virginia. "Liberty or death" has ever been to all Virginians the bugle call to battle and duty. The cavalier as he advanced across the continent, from the Atlantic to the Great Lakes, from thence to the Pacific, from the Potomac to the Rio Grande, building communities and cities, founding great States, has carried with him a fierce love of liberty and free institutions. There is scarcely a Southern or Western State that has not felt the touch of his masterful hand and whose social and political structures do not bear testimony to the greatness of his handiwork. The 100,000 persons who emigrated and settled in Virginia have now increased to 5,000,000, scattered in every State of this Union. No industry, no genius is sufficient to make an estimate of their achievements in every line of human endeavor or of their gifts to national greatness and glory. No nation was ever adorned at one time with so many illustrious men as was Virginia during the Revolutionary War and the few years preceding and following. Neither Greece nor Rome

ever possessed at once such a prodigality of genius and eminence. It is almost impossible to conceive that a population so small could furnish so many distinguished men. Towering above them all was Washington, the foremost man of all times and of all countries, whose sword was independence for the colonies, whose unselfish patriotism, strict justice, calm judgment, and great achievements isolate him from all others and emblazon him with a glory that is world-wide and eternal. Conspicuous in this shining galaxy was Jefferson, the immortal author of the Declaration of Independence, the boldest and most successful reformer of all ages; who defined the true purposes of government better than all others, whose party tenets have almost become universal, and whose wisdom purchased Louisiana, with its vast expanse of territory, and thus made possible our present national greatness. Within this group, luminous with learning and genius, stood the gentle and philosophic Madison, who when the 13 Colonies, under the old Articles of Confederation, were flying into fragments and dissolving into anarchy, conceived the Federal Constitution, and thus created our present National Government, the best and wisest the wit of man ever devised. Excelled by none in force and wisdom was resolute George Mason, the author of the Virginia Bill of Rights, the finest declaration of human rights ever penned, and which became a part of the Federal Constitution and of nearly every State constitution in the Union. He it was who wrote the constitution of Virginia, the first written constitution of the world for a republic and whose salient features appear in all others which have followed. Illuminating the skies of America with undimmed splendor was Patrick Henry, the forest-born Demosthenes, "who spoke as Homer wrote," the greatest orator of modern times, whose burning eloquence and soul-stirring appeals called a continent to arms and started a revolution which shall yet encircle the globe in its onward march for relief and reform. Residing at Chantilly, in Westmoreland County, a home of surpassing beauty, was Richard Henry Lee, whose grace and elegance would have adorned any court, and whose persuasive eloquence earned for him the title "The Cicero of the Revolution." He it was who conceived the scheme of "The Committee of Correspondence," from which sprung the union of the Colonies, with all the resultant benefits. He it was who moved on the 7th of June, in the Continental Congress, that these United Colonies are and ought to be free and independent States.

Then attending William and Mary College, which he left to enlist in the Revolutionary Army, was James Monroe, who afterwards, as President, when our foreign policy was weak, vacillating, and unfixed, had the courage to announce the great Monroe doctrine, which extended our protection to the Western Hemisphere, saved it from foreign conquest and colonization, and dedicated it to liberty, which great doctrine he made a part of the world's international law, and which will forever constitute the foundation of our foreign policy. Serving as a private in the Revolutionary War was John Marshall, the greatest jurist of modern times, and who afterwards, as Chief Justice, by his great decisions so invigorated and strengthened the Federal Government as to make it one of the most efficient and capable in the world. Wielding a vast influence was Edmund Pendleton, whose manly beauty, clear voice, integrity, and piety made him the pride of the conservative element of cavaliers. He

was president of the committee of safety, which marshaled the forces and directed the measures of resistance to Britain. He was acknowledged as one of the ablest debaters of his time. Scattering everywhere sweetness and sunshine was genial, loving George Wythe, whose culture, learning, and legal acquirements were an ornament to any State. He it was who moved on the 16th of February, 1776, in the Continental Congress, "that the colonies had a right to contract alliances with foreign powers." This was the first act of independence, and the means of securing aid of France, which was indispensable to success. Then living in Albemarle County was George Rogers Clark, who afterwards, with a few Virginia troops, captured from Great Britain all that vast territory from the mountains to the Mississippi and to the Great Lakes. The perils and privations encountered by him and his troops have never been surpassed. Historians concur in saying it was the most heroic achievement of an heroic epoch. But for the conquest made by this "Hannibal of the West" the boundaries of the United States would have been limited to the territory fringing the Atlantic coast. Few victories have ever produced such far-reaching results as his. In the beautiful Valley of Virginia was brave, daring Daniel Morgan, who Bancroft says was "the greatest commander of light troops of the world." His rapid march with his Virginia riflemen from Winchester to the relief of Boston within 21 days startled and stirred the country. He, with his Virginia troops, was the first commander to successfully resist Burgoyne's army, and to him and them belong the chief glory of Saratoga. He, sustained by his brave Virginia riflemen, won the battle of Cowpens, acknowledged as the most astonishing and brilliant victory of the war. In superb southwest Virginia was stern William Campbell, who commanded and won the battle of Kings Mountain, which victory made possible the final triumph at Yorktown. At Stratford, in Westmoreland County, lived Light Horse Harry Lee, who became the Rupert of the Revolution, the most gallant and dashing cavalryman that ever drew saber. Surrounding these great luminaries were lesser lights, yet whose brilliance was sufficient to make resplendent any State. Among these was grim, determined Archibald Cary, of Amplehill, called "Old Iron"; scholarly Richard Bland; the brave, gallant Thomas Nelson, who at the battle of Yorktown directed the troops to fire at his own home; pious, patriotic John Page; Edmund Randolph, learned, eloquent, and able, the first Attorney General of the United States, and also Secretary of State; Peyton Randolph, first president of the Continental Congress; Meriweather Lewis, whose wonderful explorations from the Mississippi to the Pacific gave to this Nation, through discovery, that lovely stretch of country embracing Oregon, Washington, and other magnificent States.

Sirs, eliminate the achievements of these men and you will nearly unwrite the history of America. These were the brains that conceived; these were the hands that constructed our national system and formed the foundation upon which have been builded American greatness and glory. Virginia, many and valuable have been your gifts to this Nation: great is your title to distinction and immortality. Within your border was erected the first church in this Nation; was built the first furnace; was founded the first free school. It was you who first challenged France on this continent. Your house of bur-

gesses was the first assembly of the Colonies to remonstrate against the tyranny of the British Parliament and assert American rights. You were the first to pass a resolution for armed resistance against British power. Your convention was the first to declare for freedom and independence unconditionally, and thus you became the first Republic of the western world. The independence of all the Colonies was moved in the Continental Congress in your name, through instructions given to your delegates. To allay colonial jealousies during the Revolutionary War you generously conceded the territorial claims of all the other Colonies. To cement the States into a Union you gave to the Nation a large territory, an empire in vastness and richness, which was yours by charter and conquest. It was you who called the convention which prepared the Federal Constitution. To you belongs the honor of being the first to condemn and prohibit the infamous slave trade. It was your wisdom and foresight which saved the Northwestern Territory from slavery, which act was the most controlling of all causes which led to its final destruction. That rich and large stretch of territory, embracing Texas and California, is a part of this Nation is due to the policy of your distinguished son, President Tyler, and the victories of your illustrious soldiers, Scott and Taylor. The first blood shed in the Revolutionary War was on your western border in conflict with the Indians, incited by Britain. The last, final blow that destroyed British power in America was delivered on your soil at Yorktown. The first ironclad vessel, which revolutionized the navies of the world, was built and fought within your waters. During the late war between the States your soil was the seat of the most prolonged and terrific war of all ages and of all countries. Within five years more than 600 battles were fought within your borders. There is scarcely a hilltop, stream, or village within your limits which has not become historical from its association with some daring deed of valor or splendid display of military genius or prowess. Virginia, your history from Bethel to Appomattox gleams with a glory that has brought to you a renown which is imperishable. You gave the world its most daring exhibition of disciplined valor, when, amid storm of shell and shot, Pickett charged the heights of Gettysburg, and by a baptism of blood and death showed the glorious stuff of which Virginians were made. The lurid light of that charge will shine to remotest time. You furnished to that conflict the dashing cavalryman, gallant Turner Ashby, who, on his milk-white steed, his drawn sword in hand, his face ablaze with the enthusiasm of battle, will live as long as gallantry, patriotism, and chivalry are cherished. You then gave to the world its greatest Cavalry leader, who revolutionized the use of Cavalry—blue-eyed, flaxen-haired Jeb Stuart, "boisterous as March, fresh as May," who rode and fought like a mighty Saxon king. You produced the best corps commander of his age, A. P. Hill, and the best tactician of his time, Joseph E. Johnston. Then you gave to the world that silent, stern, mysterious figure, Stonewall Jackson, the great thunderbolt of war, whose unflinching courage, resolute will, rapidity of movement, boldness and brilliance of conception, made a military genius second only to Lee and Napoleon, the two great gods of war. Then, seeming as if desirous of reaching a climax in your rich gifts, you gave to the world Robert E. Lee, whose princely bearing, knightly courtesy, Christian devotion to duty, brave heart, superb intellect, and amaz-

ing genius, formed a character without a peer, and who will ever shine as the brightest star in the galaxy of Anglo-Saxon greatness.

Sirs, so varied and valuable have been the achievements of Virginia that numerous titles of distinction have been awarded her. On account of her faithful loyalty to the fortunes of an ill-fated prince, she is called "The Old Dominion"; measured by the many beautiful daughters she has given to the sisterhood of States, she is called "The Mother of States"; grateful for the seven great Presidents she has furnished to govern this Nation, she is called "The Mother of Presidents"; the heroism, sacrifice, and fidelity with which she clung to the fortunes of the ill-starred Confederacy in its darkest hours gave her the name of "The Unterrified Commonwealth."

Well can Virginia this year stand on an eminence that overlooks 300 years of endeavor and proudly survey the pathway she has traveled. In her sojourn she has met perils which she has bravely overcome, encountered misfortunes of which she made no complaint, proudly bore in silence and finally conquered. She has seen many wars and fierce conflicts involving her rights to which, with reckless profusion, she sent her noblest sons, whose valor and military genius have encircled her brow with an unfading luster. In every part of national life and endeavor she has furnished illustrious sons, the splendors of whose fame are immortal. In the plenitude of her prosperity and power she generously gave to the Union when it was weak and poor. When in the hours of her sorrow and distress the Union ruthlessly tore from her one-third of her territory, with proud disdain, but not despair, she submitted, and commenced at once to make better and richer her lessened domain. Sirs, the great sculptor Michael Angelo has well said, "The more the marble wastes, the more the statue grows." With equal truth it can be said that though Virginia has been reduced in power and territory, yet, on account of what has been chiseled away by her generosity and patriotism, has been created a figure of beauty, majesty, and grandeur surpassing any mass of marble that ever cumbered mountain side.

Sirs, in conclusion, while we survey with pride Virginia's superb past, let us face the future with hope and confidence. Never were the skies of Virginia illumined with brighter prospects. Every section of the State is thrilling with a marvelous industrial development, blessed with an amazing increase of wealth. In every direction Virginia is making a rapid and permanent advance. The future beckons her to a higher, nobler destiny. Chastened by misfortune, made patient by long suffering, brave by burdens borne and overcome, stirred by the possibilities of an industrial development and wealth almost unspeakable, cherishing to a passion the teachings of her illustrious dead from Washington to Lee, Virginia presents a combination of strength and sentiment destined to make her again the wise leader in this Nation of political thought and national achievement. Young men of Virginia, the clock of opportunity strikes our hour of work and responsibility. Let us, animated by a patriotism that is national stirred by the possibilities of our State, which point to a greater future, resolve to answer all demands made upon us by our beloved State and common country and to aid this glorious Commonwealth and this mighty Republic to advance along the pathway of justice, liberty, and progress.



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